

## Notice of Allowability

Application No.

09/937,516

Examiner

Sean E. Conley

Applicant(s)

WAGNER, PETER

Art Unit

1744

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/6/2006.
2. ☒ The allowed claim(s) is/are 26-54 and 58-60.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 6, 2006 has been entered.

### ***Allowable Subject Matter***

2. Claims 26-54 and 58-60 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 26, the prior art, alone or in combination, fails to teach or fairly suggest a sterilization container that includes a temperature sensor coupled to the stop and operable to urge the stop away from the stop position based on a set temperature without also causing the valve to close the container.

Regarding claim 28, the prior art, alone or in combination, fails to teach or fairly suggest a sterilization container that includes a temperature sensor in the valve arrangement being enclosed in an enclosure separately from the container, the sensor enclosure including a valve enclosure, wherein the valve closure to the sensor closure

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being closable independently of the valve arrangement to the container, which insulates the temperature sensor from a sterilizer environment in which the container is disposed, wherein the temperature sensor is protected from premature cooling and the temperature sensor being operable to prevent the valve arrangement from moving to the closed position until a set temperature cycle of the sterilizer is complete.

The closest prior art to the applicant's claimed invention is Sanderson et al. (U.S. Patent No. 4,349,118) and Wagner (U.S. Patent No. 5,352,416).

Sanderson et al. discloses a sterilization container (base (10) combined with lid (12)) for holding items to be passed through a sterilization process (see col. 3, lines 1-16); the container having a valve arrangement (58) permitting a medium exchange between an inside and an outside of the sterilization container during the sterilization process (see col. 3, lines 52-59), the valve arrangement (58) comprising: an open position of the valve arrangement to permit the exchange of the medium and a closed position of the valve arrangement to prevent the exchange of the medium; a valve body (60) responsive to a pressure flow to urge the valve arrangement to the closed position; a stop (latch (86) contacting latch lever (78)) in the valve arrangement, the stop (86) having a stop position to prevent the valve arrangement from moving to the closed position; and a temperature sensor (fuse metal (84) in housing (82)) coupled to the stop and operable to urge the stop away from the stop position based on a set temperature reached before the ventilation phase, wherein the temperature sensor is protected from premature cooling by the fact that the valve body (60) remains closed during cooling by latch (86) and the valve is only opened by depressing manual level (74) and resetting

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the stop (latch (84)) so that the valve is in an open position (see figures 1, 5 and 6; col. 3, line 60 to col. 4, line 57; col. 5, lines 3-38; col. 6, lines 23-45).

Wagner discloses a sterilization container for holding sterilized items to be passed through a sterilization process in a sterilizer that includes a vacuum drying phase and a ventilation phase, the container is capable of remaining hermetically sealed and maintaining a vacuum established during the sterilization process; the container having a valve arrangement permitting an exchange of a medium between the sterilizer and the sterilization container during the sterilization process, the valve arrangement comprising, an open position of the valve arrangement to permit the exchange of the medium and a closed position of the valve arrangement operable to prevent the exchange of the medium; and a temperature sensor in the valve arrangement operable to prevent the valve arrangement from moving to the closed position until a set temperature cycle of the sterilizer is complete (see figures 1 and 10, column 1, lines 35-63, and column 4, lines 9-63).

However, neither of the above references teaches or suggests all of the limitations in each of independent claims 26 and 28. Therefore, claims 26-54 and 58-60 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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December 21, 2006

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER